

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 96-6512**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FRED JACOBS,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (CR-91-57-BO, CA-96-28-7-BO)

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Submitted: November 26, 1996                      Decided: January 13, 1997

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Before WILKINS, HAMILTON, and WILLIAMS, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Fred Jacobs, Appellant Pro Se. Charles Edwin Hamilton, III, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals from the district court's order dismissing his motion brought under 28 U.S.C. § 2255 (1994), amended by Anti-terrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. We affirm.

Appellant pled guilty to conspiracy to distribute cocaine in violation of 21 U.S.C. § 846 (1994). He now claims that the prosecutor entered false evidence regarding previous crimes, resulting in his being improperly sentenced as a career offender under United States Sentencing Commission, Guidelines Manual, § 4B1.1 (1992). Notwithstanding the possibility that Appellant has waived his right to attack his sentence, we find that his claim is meritless. According to the information contained in Appellant's pre-sentence report, Appellant was over the age of eighteen when he committed the instant drug offense and he had two prior offenses fitting the categories prescribed by § 4B1.1 as defined by § 4B1.2. Accordingly, we find that he was properly sentenced as a career offender and that the prosecution presented no false evidence of his prior offenses. We therefore affirm the district court's dismissal of his motion. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED